

Docket No.: 00-VE02.72

REMARKS

In the Office Action, claims 1-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,697,103 to Fernandez (hereinafter "Fernandez"); and claim 4 was additionally rejected under 35 U.S.C. §103(a) as being unpatentable over Fernandez in view of U.S. Patent No. 6,286,039 to Van Horne (hereinafter "Van Horne").

In this Amendment, Applicant has amended independent claim 6 to further articulate novel aspects. Claims 1-5 and 10-12 have been cancelled, and claims 13-18 have been added. No new matter has been introduced. Upon entry of these amendments, claims 6-9 and 13-18 will be pending in the application. Claims 6 and 13 are in independent form. Applicant respectfully requests favorable reconsideration of the presently pending claims in light of the amendments and remarks presented herein.

Patentability of Independent Claims 6 and 13

Applicant has amended independent claim 6 to more clearly articulate patentable aspects not disclosed, taught, or suggested in the prior art of record. As amended, claim 6 recites, among other limitations, the transmitting of an alerting message to at least one of a pager and a telephone number in response to a message not being received from a DSL demonstration kiosk by a predetermined time. New independent claim 13 includes a similar claim limitation.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. The prior art of record, taken either alone or in combination, does not disclose, teach, or suggest the claim limitation of transmitting an alerting message to at least one of a pager and a telephone number in response to a message not being received from a DSL demonstration kiosk by a predetermined time.

Contrary to the assertions on page 6 of the Office Action, Fernandez fails to disclose, teach, or suggest at least this claim limitation. The closest Fernandez comes to such a teaching is found at column 15, lines 42-44: "Tool 166 may adaptively provide positional or directional functionality generally to alert authorities or other interested parties when undesirable object or movement is monitored." This teaching of Fernandez is limited to

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performing an alerting function only in response to a detection of an undesirable object or undesirable object movement, which has nothing to do with transmitting an alerting message in response to a message not being received from a DSL demonstration kiosk by a predetermined time.

Further, any other alerting function disclosed in Fernandez is limited to being performed in response to either unauthorized access attempts or monitored object position, movement, or other remote object characteristic (e.g., see col. 13, lines 54-58), each of which is entirely different from the claim limitation of transmitting an alerting message to at least one of a pager and a telephone number in response to a message not being received from a DSL demonstration kiosk by a predetermined time. This claimed feature is useful for alerting appropriate personnel when a DSL demonstration kiosk is not functioning properly, and especially when a connection to the DSL demonstration kiosk has failed. In contrast, Fernandez is concerned with solving different problems, namely monitoring types, positions, and movements of remote objects (Abstract of Fernandez) and simply does not include any teaching or suggestion of transmitting an alerting message in response to a message not being received from a DSL demonstration kiosk by a predetermined time.

Moreover, although Fernandez may disclose a cellular phone or pager functionality in a target unit, the functionality is disclosed in the context of using the functionality to transmit navigational or position signals from a target unit 4 to a communicator 7 during conventional cellular or pager roaming or signaling protocol (col. 7, lines 46-51 of Fernandez). The use of cellular phone or pager networks and protocols to transmit positional data is unrelated to and does not teach or suggest a transmission of an alerting message to a pager or a telephone number.

In short, the monitoring of remote object position and movement disclosed in Fernandez does not contain any teaching or suggestion of the claim limitation of transmitting an alerting message to at least one of a pager and a telephone number in response to a message not being received from a DSL demonstration kiosk by a predetermined time. Van Home, which was cited merely for a teaching of a remote reboot function, does not cure this deficiency of Fernandez. For at least the foregoing reasons, Applicant respectfully submits that independent claims 6 and 13 as amended contain subject matter that is patentable over

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the prior art of record, and are therefore in condition for allowance. Claims 7-9 and 14-18 are also in condition for allowance by way of their respective dependencies from independent claims 6 and 13.

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CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 07-2347. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

Respectfully submitted,

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